

ADVISORY COMMITTEE ON COMMERCIAL OPERATIONS OF  
U.S. CUSTOMS AND BORDER PROTECTION (COAC)

EXECUTIVE SUMMARY

1:07 to 4:12 p.m.  
Thursday, February 20, 2014

**Committee Welcome and Committee Roll Call**

Maria Luisa Boyce welcomed everyone to the meeting and began the committee roll call. The committee members present were: Ted Sherman, Kathleen Neal, David Berry, Leman "Chip" Bown, Jr., Scott Boyer, Mary Ann Comstock, Jeff Coppersmith, William Earle, Matthew Fass, William Ferguson, Brandon Fried, Carol Hallett, Suzanne Hoeger, Vincent Iacopella, Karen Kenney, James Phillips, and George Weise. Julie Parks joined by phone for her export subcommittee update. Elizabeth Shaver was not present.

Ms. Boyce then introduced the Acting Commissioner Thomas Winkowski for opening remarks.

**Opening Remarks by Thomas S. Winkowski for CBP**

Commissioner Winkowski welcomed colleagues to the first COAC of the year 2014. He also welcomed Timothy Skud, representing Department of Treasury, and Ellen McClain representing Department of Homeland Security. Mr. Winkowski acknowledged Ted Sherman, Director of Global Trade Services, Target; Kathleen Neal, Director of Trade Compliance, Regal Beloit Corporation, Acting Assistant Commissioner Susan Mitchell from the Office of Field Operations; Acting Assistant Commissioner Richard DiNucci from Office of International Trade; Assistant Commissioner Eugene Shied of Office of Administration; Ana Hinojosa, Deputy Assistant Commissioner, Office of International Affairs; Phil Landfried, Deputy Assistant Commissioner, Office of Information Technology; Tom Mills who is taking Phil Landfried's place on ACE; Maria Luisa Boyce, Executive Director of Office of Trade Relations; and Joe Messea from Immigration and Customs Enforcement/Homeland Security Investigations (ICE/HSI).

2013 was a very productive year with recommendations for issues regarding the Automated Commercial Environment (ACE), Trusted Trader, exports, Air Cargo Advance Screening (ACAS), and the role of brokers to name a few.

The Export Subcommittee will deliver a master principles document on exports for the COAC to vote on.

Mr. Winkowski had lunch with COAC members today where they celebrated an Executive Order (EO) signed by the President on February 19th, 2014, which pertains

to Single Window which is to be finished by December 2016. The Executive Order codifies the Border Interagency Executive Council (BIEC) and shows the importance of both the import and export sides. Working with the World Customs Organization (WCO) and others to harmonize the data elements is right in line with the Executive Order. The new Secretary Jeh Johnson is expected to play a leadership role in trade issues.

Mr. Winkowski said he is looking forward to the nominee, Gil Kerlikowske to be voted on so he can become the fourth sworn-in Commissioner of U.S. Customs and Border Protection since 2009.

The Trade Symposium is coming up March 6th and 7th where there will be some very good speakers and individuals who are in very important positions to play leadership roles in the area of trade and trade transformation. The theme will be Increasing Economic Competitiveness Through Global Partnerships and Innovation.

2013 was a very tough year with the sequester, and losing \$600 million. Mr. Winkowski is optimistic that 2014 and 2015 will be good years for CBP. Many key areas have been funded. CBP is gaining an additional 2,000 Customs and Border Protection officers in 2014 and 2015. This is a major victory.

On the agriculture side, they are looking at a similar approach but more with full-cost recovery for the U.S. Department of Agriculture (USDA) user.

### **Opening Remarks by Timothy Skud for Department of Treasury**

Deputy Assistant Secretary Timothy Skud gave some brief opening remarks. He reported that the International Trade Data System (ITDS) 2013 Congressional Report outlines, where they are now, and the progress they have made in the past 12 to 18 months.

He said the news of the day is the President's issuance of the Executive Order on streamlining business transactions for the border and believes that the progress made in the past year will continue, and ITDS will be completed on schedule. The Single Window will reduce the cost of importing and eliminate the redundant paper-based reporting.

### **Opening Remarks by Ellen McClain for Department of Homeland Security**

Deputy Assistant Secretary Ellen McClain began by noting that all the work that has been done leading up to the EO is of great significance and that the IT system is the second component of the Order. If the BIEC in its leadership role can realign some of the processes and bring together the 47 agencies to streamline the decision making, the IT capabilities of the ITDS system will become more efficient.

She stated that if the agencies are acting in line with the supply chain security, the

results of efficiency and cost effectiveness change from days to hours to minutes.

### **Opening Remarks by Ted Sherman for COAC**

First of all, COAC is very encouraged by progress toward the appointment of a permanent CBP commissioner and we look forward to working with Mr. Kerlikowske in his new role once confirmed.

We would like to thank Acting Commissioner Winkowski, Acting Deputy Commissioner McAleenan and their teams for their ongoing strong support and partnership as we work together on a number of trade transformation initiatives. This has been, and continues to be, a productive partnership.

In 2013, the COAC undertook work and offered recommendations on a number of fronts, including:

- One US Government
- ACAS
- Role of the Broker
- Exports
- ACE
- Trusted Trader
- Trade Survey

Carrying forward the work of the 12th COAC and last year's efforts, we continue to focus on advocating for and providing advice on the development of a whole of government approach to managing imports and exports, in terms of systems, process, and approaches to risk segmentation and management of trusted trader programs. These concepts are embodied in the 1USG Master Principles for Exports document we will be discussing today, building upon the work of the last COAC in adopting a set of principles for a 1USG approach to imports.

Yesterday marked a watershed moment in these efforts with the announcement of an executive order mandating the completion of the International Trade Data System by December 2016, and the formalization of the BIEC's critical role in improving coordination among the agencies with import and export responsibilities. We eagerly look forward to working with CBP as they partner with the other BIEC agencies to ensure these strategic goals are successfully executed via initiatives such as ongoing ACE development, Centers of Excellence, Trusted Trader initiatives, and carrying out the mandate to fully roll out ITDS.

Ted encouraged members of the trade community to read the Executive Order carefully. It's a high level document but is also very specific in addressing key issues of importance to the trade, both in terms of automation, and in terms of process and governance. It's a very well-crafted and well thought-out document.

Moving into 2014, our focus will continue to be on partnering with CBP to drive economic competitiveness and ensure effective, predictable enforcement of the nation's trade laws while maintain the security of the international supply chain. In this vein, the “blocking and tackling work” continues to be extremely important – Intellectual Property Rights (IPR), Role of the Broker (ROTB), Regulatory Audit (RA), and work on Anti-Dumping Duties (ADD) are issues that impact economic security and effective compliance. It remains true that transparent, predictable enforcement of trade laws is critical to ensuring the flow of legitimate trade is not impeded. Today we bring forward recommendations on several of these initiatives – IPR Enforcement, the Focused Assessment program, and ACAS, in addition to ACE and Trusted Trader.

Ted noted that while these issues are fairly technical and operational in nature, each has a significant One U.S. Government (1USG) component. ACAS is a great example of this, given the tight coordination and collaboration that will be required between CBP and Transportation Security Administration (TSA).

There is also growing awareness of the fact that the US government and trade community can play a leadership role in removing barriers to trade facilitation on the International stage as well as within the borders of the US. This can be seen in initiatives such as Beyond the Border (BtB), Pathways to Prosperity, and 21st century border management – the COAC received excellent briefings on these topics this morning.

On a tactical level, the Holy Grail for the trade continues to be file once, use many times when it comes to managing data across multiple customs jurisdictions. At the strategic level, we look forward to continuing to work with CBP as they engage on issues of trade facilitation both within North America and globally, with the goal of lowering transaction costs and increasing competitiveness across the entire global trading system.

To be most effective, it continues to be critical that CBP engage COAC early and often, on operational issues but primarily on a strategic basis – This will continue to be extremely important on issues such as C-TPAT for Exports, Trusted Trader (TT), and the CEE's. COAC's role is often to ask why in addition to how, and we will continue to do so. We've all seen the tremendous benefits of this approach, and there's no better example than the momentum we are now experiencing on the 1USG front.

In closing, COAC would like to recognize Maria Luisa Boyce and her team for their outstanding leadership and partnership with COAC in this regard. And I'd like to thank all of the COAC members for the tremendous amount of work they put into the Committee's mission. Recommendations are the most obvious or tangible evidence of COAC's work, but the numerous calls, subcommittee meetings, and ad-hoc discussions are where so much of the valuable dialogue occurs. Thank You.

**Exports Subcommittee  
Suggested Revisions to Specific Customs and Border Protection Export  
Policies as well as Recommendations on a Master Principles Document  
for a One U.S. Government at the Border Focused on Exports**

Member Julie Parks provided an overview of the activities of the Exports Subcommittee. After working on an export mapping exercise, an export education package was developed. New Master Principles for a One U.S. Government at the border was developed, which sets trade vision and goals. Pilot programs will be developed next.

After posting the Export Education Mapping Package they realized the mapping did not include foreign trade zones and bonded warehouses. These issues were discussed and they now plan to partner with the Trade Facilitation Subcommittee and deliver a mapping package that goes over things like foreign trade zones, bond warehouses, drawback, temporary imports and exports; both TIB and Carnets. The goal is to reduce the cost of doing business and to protect the economic security of the U.S. The goals are embodied in the Executive Order.

Government Information Sharing talks about replacing manual processes with automation. Advanced data should leverage the already piloted processes and should be used for risk-based targeting purposes.

The final point is to give consideration to facilitating trade by allowing exporters with low-risk cargo to give information about their business, their partners, and the characteristics of their shipments on a periodic basis.

On the Government Partnerships and Trade Input section, an account-based solution proposes to assign government account managers, and also looks at organizing by industry and operations and focus on risk. The long-term plan that is envisioned is to establish partnership programs.

Ms. Parks also likes the clarity of program suspensions with the limits associated there and the reinstatement as well as the idea of a trade prospectus for those partnership programs to be voluntary in nature.

Government and trade will be encouraged to operate with greater transparency, mutual accountability and responsibility. They are looking at providing feedback to an account manager and will identify internally company points of contact. There is expected cooperation to have predictable guidelines. They are looking at management across the government matrix addressing matters within an industry for single and multiple Partner Government Agencies (PGAs) and across industry for a single export PGA.

Strategic partnerships between ITDS and the Border Interagency Executive Council and a strategic approach to connect advisory committees are being examined. The Executive Order addresses the Border Interagency Executive Council, and advisory

committees need to be aligned to provide advice and guidance on a synthesized basis.

Performance monitoring is another aspect of partnership program participation to make sure costs and benefits are included and addresses partnership programs such as freight dwell and entry processing time benefits. Communication of the effectiveness of enforcement strategies and new programs is a priority.

The idea of the Border Interagency Executive Council being organized by the Executive Order to create a central point for managing by account, establishing a process for escalation, harmonizing metrics and data, and leveraging COAC and other advisory committees is agreeable. They wish to ensure data integrity when there is government sharing.

To be sure enforcement efforts are not jeopardized; consulting regularly on matters of mutual interest is encouraged. Collaborative environments between government and trade and across government and across trade need to be accomplished.

Single Window is seen as an opportunity to unify targeting, coordinate relief, and serves as a single collection point for all agencies. A Single Window system should be used to issue a unified response to the trade.

Member Vince Iacopella read the recommendations into the record for a vote. The first recommendation is that CBP use Master Principles for U.S. Government at the border cooperation for exports as well as the export mapping and developing their U.S. export strategy. Customs and Border Protection is encouraged to lead the U.S. Government socialization of the foundational principles that the COAC believes are required to position the U.S. Government to officially manage strategic cross-border issues in a manner that reduces the cost of doing business.

The second recommendation of the COAC is that Customs and Border Protection's export strategy is shared with the COAC for comment prior to finalization.

Executive Director Maria Luisa Boyce then moved for the adoption of the two recommendations, and it was seconded by Vince Iacopella. Kathleen Neal commented that it is important that everyone understand that the wording that was used reflects the feelings of the majority of the COAC members and was developed with a great deal of thought.

Mr. Winkowski thanked Julie Parks and Liz Shaver for their hard work and the A-plus job they have done.

There were no public comments or discussion, and the motion for the two recommendations was approved.

Government representatives Executive Directors Todd Hoffman and Brenda Smith

thanked Julie and the Subcommittee for their hard work on the Master Principles document. Brenda Smith stated that from an ACE perspective they are excited that some of the principles in the Master Principles document are already reflected in the modernization that we're doing on the export side.

Timothy Skud emphasized that the ITDS effort should not be simply automating forms but to find the most efficient way for the ITDS agencies to do their jobs.

### **Trusted Trader Subcommittee and an Update on the Subcommittee's Comments and Recommendations for the C-TPAT Criteria for Exporters**

Member William Earle provided an update of subcommittee activity since the last meeting. CBP was provided with comments on the export program that are being evaluated with the idea of completing a Federal Register notice for a pilot for the C-TPAT exports program. A Frequently Asked Questions document was developed for the trade.

A 26-point discussion document was created to define the best business characteristics of exporters in general and an overview of the best practices for CBP. CBP learned that the trade is looking for benefits associated with programs like this and that exporters are different from importers and have different expectations from government.

The subcommittee worked with CBP to refine and finalize security criteria and published a more tangible list of benefits for the program. Monitoring EO and Mutual Recognition Agreements (MRAs) partners for evidence they are codifying the C-TPAT requirements for supply chain security in order to make the program integrate more fully was recommended.

Mr. Earle concluded by reading the recommendation: COAC recommends that CBP allow us to have an opportunity to review the results of all Trusted Trader pilots and provide input to the program in its totality before we, as COAC, decide whether to endorse the program.

There being no comments, the recommendation was approved, and Executive Director Todd Hoffman thanked the subcommittee for their work on the eligibility and the minimum security document. He believes documents should be developed to educate the trade on the scope and value of C-TPAT for exports. He wants to ensure that they are selling something that the industry wants.

In a discussion between Mr. Winkowski and Mr. Earle the common ground is, there has to be a payoff for the exporters in whatever is developed, and they both used the term C-TPAT Lite to describe the direction they are contemplating.

Member Jeff Coppersmith added that produce exported from the U.S. will not qualify for

C-TPAT programs, because, for example, no one is going to do background checks on the workers driving tractors or picking in the fields.

**One U.S. Government at the Border Subcommittee  
and an Update on the Progress of the Partner Government Agency --  
Message Set (PGA-MS) and Potential Collaboration with the Border Inter-agency  
Executive Council (BIEC)**

Member Mary Ann Comstock provided a brief summary of the report. The survey data was taken to several partner government agencies for review, and it was learned that there is a need to refine their questions. The third survey will reveal a lot of trade issues for partner government agencies. COAC/CBP took the November 2013 COAC recommendations with regard to the One U.S. Government at the Border to the ITDS Board. The only feedback was that it appears it is in line with what the ITDS Board is doing.

Member Susie Hoeger reported that the Subcommittee continues to work with the Food and Drug Administration (FDA) working group that engages in matters such as data and risk management, a Trusted Trader program, and automation advancements. A new ITDS working group will be formed to address topics such as government to business to government messaging and information sharing, bi-directional training, and policy issues. It is most important that the trade community and government agencies establish mutual understanding and expectations for the future of data exchange.

Ms. Comstock endorses the Executive Order and believes cost-effective trade processing infrastructure and modernization and simplifying government interaction with the trade community has been the goal. She pointed out that the Executive Order is going to help our government lead by example and partner with other countries to be able to modernize globally.

Executive Director Brenda Smith summarized that the Executive Order places emphasis on the collaboration between the private sector and the government to create One U.S. Government at the Border.

Executive Director Cynthia Whittenburg added that movement of goods across the border will have to be coordinated to streamline processes in a common sense manner.

**Public Comments/Questions:**

Webinar participant, Randi Keenan asked the question, "Will the Trusted Trader program tie into the exporter community being a known shipper and the TSA IACSSP program?" Mr. Hoffman responded that he envisions linkage with the Trusted Trader Program and the global supply chain linkage to have one unified global supply chain. It



is the vision that C-TPAT will dovetail into the various AEOs that are mutually recognized.

**Trade Enforcement and Revenue Collection (TERC) Subcommittee:  
Review and Discuss the Comments the Regulatory Audit Working Group  
on the Final Draft Document on the Planned Enhancements for the  
Focused Assessment Process; Report Out on the Intellectual Property  
Rights Working Group's work to Determine the Feasibility of a Trusted Trader  
Program for IPR, the Simplified Seizure Process for Low-value Shipments,  
and Report on the Bonds Working Group's Discussions on the Concept of E-  
bonds and Centralization of Single Transaction Bonds**

Member Chip Bown reported on the Bond Working Group whose goal is to achieve centralization with single transaction bonds through utilization with ACE bond functionality. The group is focusing on high-level strategic achievements rather than the technical level which will be addressed through the trade support network e-bond subcommittee. Procedures and practices will be changed resulting in less parties tendering e-bonds to CBP.

Director Bruce Ingalls followed up by saying that they are working on educational tours to gain a better understanding what the trade needs and help get into functionality and design. Visits to surety agents helped tremendously to learn the systems used by them. His group attended the Northern Border Customs Brokers Association Conference where they laid out their vision for the future. Last week they were at a National Customs Brokers and Forwarders Association (NCBFAA) vendors' conference. They have a person from the Office of Administration (OA) Revenue Division assigned to the team. In the next couple months the processes will be redefined and fine-tuned.

Member Karen Kenney gave a quick update from the work of the IPR Working Group under the Trade Enforcement and Revenue Collection Subcommittee.

The IPR Working Group has continued its work throughout the past several months on several initiatives to enhance IPR protection. Throughout past COAC terms CBP and the trade together have explored a distribution chain management approach to IPR protection.

The working group looked at several different ways distribution chain management protocols could be used to authenticate shipments. And I think it became clear to both parties that while the concept seemed like a great way to track authentic goods, current business practices really didn't support it. The investment required outweighed the benefits.

So as a result the COAC will be making the recommendation today that the initiative be tabled until industry more widely adopts protocols that support that initiative.

Ms. Kenney gave an overview of the initiatives that the IPR Working Group is focusing its resources on now that we feel have the potential to support IPR protection and trade facilitation.

First the working group is continuing to explore the use of the document imaging system (DIS) to submit documentation or photographic evidence of authenticity to CBP at the time of entry. We're working to compile a list of documents or that photographic evidence that the trade could submit to CBP, and then CBP is going to explore how that information might be used for better targeting.

Secondly, we are collaborating with the Trusted Trader folks and the centers to explore how IPR might fit into existing programs and perhaps into new programs in a flexible way that works for legitimate importers of all sizes and with varying business models. And I think the more inclusive we can make those programs inside the legitimate importing community, the better the results we'll have for both CBP and the trade with respect to facilitation enforcement and intelligence.

Ms. Kenney concluded her IPR working group report by reading the recommendation: The COAC IPR Working Group after extensive exploration, discussion, and outreach to the trade determined that the distribution chain management initiative could prove costly and burdensome to the trade, especially to legitimate brand owners and importers of branded merchandise until industry more widely adopts protocols that allow for the transmission of alpha-numeric identifiers or DCM data.

As a result, the COAC recommends that CBP table the distribution chain management initiative until such a time as the trade advises that industry-wide supply chain practices make the concept more viable.

There being no comments, the recommendation was approved, and Executive Director Cynthia Whittenburg thanked the subcommittee for their work.

Ms. Kenney moved on to the Regulatory Audit working group report. In mid-December CBP provided the COAC's Regulatory Audit Working Group with a pre-decisional draft of their focused assessment (FA) pre-assessment audit survey audit program document -- lengthy name and a long document, but we appreciated the opportunity to comment on that document.

This is the guide that will be used by CBP to train auditors to prepare for the upcoming changes to the focused assessment process that will likely begin to affect FA's that are initiated in 2015.

The COAC appreciates the opportunity to provide CBP with input to the document and the collaborative process that was used to finalize the draft. The working group provided CBP with written comments, and CBP provided written responses. And in many cases CBP has already incorporated that feedback into the draft, and we appreciate their

acknowledgment of our input.

Generally speaking, for the trade, the most significant changes being made to the FA process fall into two general categories. First, CBP's more flexible approach to Focused Assessments will move away from a checklist sort of approach to a framework that gives the auditor more latitude when conducting an audit. This allows the auditor to tailor, for example, a smaller medium-sized importer's Focused Assessment more appropriately to its business model versus a larger entity that maybe has more staff directly assigned to compliance, maybe more written audit processes and so forth.

The trade appreciates the need for this flexibility and wants to ensure, I think importantly, in practice in the field that there is an acceptable range of variation in the CBP auditor's approach to similarly situated importers.

The second category of significant change is in sample sizes. As a result of the changes CBP is making, sample sizes will almost certainly grow during Focused Assessments. The trade feels that it's essential that CBP share the specifics of these changes as soon as possible, giving importers sufficient time to adjust their own internal processes to prepare for this new approach.

It was mentioned that there is also a concern maybe that the increase in sample sizes could further extend what can sometimes already be a fairly lengthy and costly FA process for importers.

Generally speaking, the trade believes that its concerns can be alleviated if CBP takes three high-level steps -- that are further outlined in the eight recommendations we'll be making today, but they sort of fall into three general categories.

First, we think it's important that CBP appropriately target training for its auditors. And that training should highlight key trade concerns to ensure the auditors have a common understanding of the changes and of the goal that audits are conducted within that acceptable range of variation.

Secondly, we think it's important that CBP embrace bidirectional education with the trade about these changes and about the Focused Assessment process in general, really, in the form of seminars, collaboratively created and formed compliance documents, and better overall communication. I think, very simply, importers need to know the rules of the game.

And then, lastly, we believe that it's important that CBP ensure there's appropriate headquarters and supervisory oversight as the changes are rolled out.

Before Ms. Kenney moved to the recommendations, she wanted to take a moment for additional comments because we will be closing out the Working Group. I think Cynthia may comment on that briefly. We'll likely be closing out the Working Group, and I

wanted to take a moment to thank our non COAC members.

We had some great input from the trade, and I just wanted to thank Andy Siciliano from KPMG, Deep SenGupta from FedEx, Larry Ordet from Sandler and Travis, Tom Gould of Tom Gould Consulting, and Terrie Gleason from Baker and McKenzie. They gave a lot of time and energy to this effort. It was a long document, some real thoughtful and balanced feedback, and I'd just like to thank them for that.

Ms. Kenney presented eight recommendations from the Regulatory Audit Working Group. Mr. Ted Sherman seconded the motion. There being no comments, the recommendations were approved.

Executive Director Mel Moreland provided a CBP response to the Regulatory Audit report. He thanked Karen for her work on the -- on the program and the project. And called attention to the work of Beth Chiavetta of Regulatory Audit who was the lead for Regulatory Audit on some of these issues. Having been the -- involved in the original FA process back in 2001 he recognized it was time for an update.

### **Global Supply Chain Subcommittee's Air Cargo Advance Screening (ACAS) Working Group and Updates on Land Border Initiatives**

Member Jim Phillips opened by saying the U.S. and Canada continue to work on projects under Beyond the Border. Three items that have been discussed are likely to be included in recommendations in the next quarter. First, a border fee study has been done and is posted on the website. The next step will be to review economic impact studies that are being done. The second item is data harmonization, and the third item will be the Prince Rupert Pilot under which a lot of information has been collected. They are going to look at it again and provide some input on what has been learned and how it might be used in the future.

Commissioner Winkowski reminded the group that the Peace Bridge Pilot kicks off this week. Liz Schmelzinger, Jim Phillips, and Timothy Skud all agreed to the importance of the project with Ms. Schmelzinger saying the Phase II purpose was to reduce wait times and border congestion with the purpose of Phase I being to test the feasibility of operating in Canada and those who have decals or transponders that can pay a user fee.

Deputy Assistant Secretary Timothy Skud encouraged the subcommittee, private sector people, and CBP people to keep strong focus on harmonizing within North America in conformance with international standards like the WCO data model and other things they've committed to support.

Member Brandon Fried expressed his gratitude to air carriers, TSA, CBP personnel,

and the express carriers and forwarders who have been involved in this ACAS Working Group. He reviewed the main work tasks of 2013 and the focused on the direction that will be taken in 2014 with the group having broader focus to include policy issues. 2014 work should assist CBP and TSA in development of a seamless and fully harmonized ACAS regime. It will be critical that the regulatory language drafted by CBP not result in the imposition of operationally unfeasible response protocols on ACAS participants.

The group has three recommendations which are: 1) In cases where a master airway bill link is not provided on the original ACAS transmission, the transmitting party should not be required to identify secondary notified parties. 2) The express and freight forwarder dual-filing models that have been proposed by the ACAS Work Group provide better security and operational solutions for cases where the master bill link has not been made by the original transmitted. It is recommended that ACAS provide an optional voluntary secondary notified party functionality for all the ACAS transmitters, primarily for the potential of such functionality to significantly enhance national targeting center and transmitter communication flexibility. 3) From the commercial and operational point of view, freight forwarder participation in ACAS as original data transmitters is critical to ensure that the ACAS playing field is level for both express carrier and conventional carrier business models.

Further it is not recommended that a 24-hour, 7 day a week, 365 day a year mandatory response requirement be imposed on forwarder participants.

#### **Public Comments:**

Mike Mullen, Executive Director of the Express Association of America, expressed his appreciation to everyone on the government side and the private sector who has worked on this. He believes they are in the right place to go forward with this NPRM right now. He cautioned that, as this moves forward there could be pushback from OMB because the NPRM might be suggesting some sort of new and creative ways to handle the flexibility required for a range of filing options. The motion was passed to approve the recommendations.

Executive Director Todd Hoffman offered a brief comment from the government saying the ACAS pilot has been a great success between government and industry. There is agreement that requiring C-TPAT status was too restrictive to the filing model. They do not agree with Recommendation No. 3 at this point but will continue working with the committee on the issue. He believes not requiring the freight forwarders to be available if they are a filer, undermines the core purpose of having ACAS. When the bell rings, someone needs to be there to answer.

Mr. Hoffman inquired whether they are going to work toward a solution, to which Mr. Fried replied that they are trying to figure out a compromise.

**Trade Modernization Subcommittee and the Work Completed  
by the Automated Commercial Environment (ACE) Working Group  
and the Role of the Broker Working Group**

Member Chip Bown read the recommendation: COAC recommends that CBP release the technical application documentation, including the final PGA message set at least 18 months prior to mandatory filing dates for manifest cargo release and full ACE functionality. The motion in favor of the recommendation was passed.

Executive Director Brenda Smith agreed 100 percent with providing draft technical guidance and stated that the group recognizes that it is not the full solution. She hopes to provide relationships between those who develop software and the private sector, and those who develop software at CBP at the upcoming software vendors' conference next week, sponsored by the NCBFAA.

Members Jeff Coppersmith and Vincent Iacopella are co-Chairman of the Role of the Broker Working Group and discussed the role of the broker which came up with 17 key recommendations for the future direction of the role of the broker in late 2011. Jeff believes that the most important recommendation was the ACE finalization and still feels it is very relevant.

Other recommendations were continuing education for increased professionalism for customs brokers, and update of regulations to better protect against the rise of identity theft. He explained that once they see the finalized 5106 they will likely decide whether or not they need to revisit the issue of bona fides in order to help protect identity theft and to help the IPR Subcommittee.

Jeff emphasized that CBP must continually update their regulations to account for modern business practices and align with the electronic environment which translates into broker permitting. The group realizes that current district boundaries for permitting should be modernized to reflect advancements in ACE. Customs brokers are modernizing how they conduct business

The group acknowledged that the use of Customs Brokers' national permit is becoming more important for Customer Brokers who participate in modernization, especially those involved in remote entry filing.

Mr. Coppersmith stated that the goal of this group is to propose a recommendation that aligns the broker permit system with trade modernization initiatives while ensuring that Customs Brokers exercise responsible supervision and control and that there is an appropriate level of professionalism and technical expertise in all Customs Brokers' offices. He expressed that CBP should recognize the broker's role as a communicator and forced multiplier to increase compliance, especially for small and medium-sized importers. CBP needs to have effective processes and procedures in place to manage licensed Custom Brokers. CBP must ensure the consistent oversight and treatment of licensed Customs Brokers on a local, regional, and national basis. The current broker management processes must be modernized at the same time as the revisions to the permitting process. The Broker Management handbook was published in 2002 and is in

need of updating.

Executive Director Troy Riley recognized that COAC is moving with prudent caution. He is eager to work with COAC to continue to modernize the broker management processes and will be looking at supervision and oversight, and doing surveys and audits as necessary.

Member Jim Philips, Co-Chair of the Trade Modernization Subcommittee concluded by expressing appreciation for the work of Cynthia Whittenburg in looking at a simplified entry summary, which will be looked at more next quarter.

### **Public Comments/Questions:**

Public comments were made beginning with Ken Bargteil speaking for himself as an individually licensed customs broker and for Darrell Sekin, President of the NDBFAA. He talked about the growth in the number of customs brokers as regulations changed. He pointed out that he believes it would be a mistake to overlook the economics that a change in the regulations could precipitate. He believes this group is overlooking the individually licensed customer brokers and added that their interests do not always align with the brokerage firms which employ them. Cost consciousness is always on the front lines of executives who manage our businesses. He does not agree entirely with what has been said and believes there is another perspective that must be adopted as the issues is approached.

Ms. Wallace presented a question for Brenda Smith from Randi Keenan, a member of the public via webinar: Will ACE include the ability to submit ITAR and commerce licenses as you transition from the AES system to the new ACT platform; and will it reduce the time it takes to receive license approval from both agencies?

Brenda Smith replied to Ms. Keenan's question by saying that because of the complexities of the licensing process that they decided not to "boil the ocean." Instead, with ACE on the export side it has been decided to link to the System U.S. Exports and use the license data from other agencies in making determinations on outbound cargo. The plan is to build into export capability, the ability to decrement licenses so the paper process and the management of those paper documents that still exist in most ports around the country will be significantly streamlined.

Maria Luisa Boyce ended by stating that it is important that the whole community have the discussion and has a measured approach on that recommendation. She then thanked the participants for their input. Lastly, she reported that there will be partnering with a university consortium to do a survey on centers of excellence and expertise, specifically on the electronic centers. The survey will be sent out to that industry and to the COAC members so they can forward the survey to their contacts and the association. Look for more information on this topic.

### **Closing Remarks by Tom Winkowski**

Commissioner Winkowski closed by thanking everyone for a very productive season, on the effective job of addressing the issues at hand, laying out the 2014 agenda, and the work that comes with the Executive Order. He anticipates the need for a timeline to include the steps to be taken in working with the PGA. He recognizes the need for input from the COAC and others to facilitate sharing of information and lay out the roadmap for implementation in December 2016. He wants everyone to be involved in the Peace Bridge Pilot and examine the Mexican initiatives. He is eager to have the nominee become the sworn in Commissioner.

The next meeting is May 2014. It will not be in the same room.